

1 SENATE BILL 248

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

3 INTRODUCED BY

4 Leonard Lee Rawson

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10 AN ACT

11 RELATING TO TAXATION; EXPANDING THE DEFINITION OF "PHYSICIAN"
12 IN CERTAIN PROVISIONS OF THE INCOME TAX ACT TO INCLUDE
13 PHYSICIANS LICENSED IN ANOTHER STATE.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 Section 1. Section 7-2-5.9 NMSA 1978 (being Laws 2005,
17 Chapter 104, Section 6) is amended to read:

18 "7-2-5.9. EXEMPTION--UNREIMBURSED OR UNCOMPENSATED
19 MEDICAL CARE EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS OF AGE OR
20 OLDER.--

21 A. Any individual sixty-five years of age or older
22 may claim an additional exemption from income includable,
23 except for this exemption, in net income in an amount equal to
24 three thousand dollars (\$3,000) for medical care expenses paid
25 by the individual for that individual or for the individual's

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1 spouse or dependent during the taxable year if those medical
2 care expenses exceed twenty-eight thousand dollars (\$28,000)
3 and if the medical care expenses are not reimbursed or
4 compensated for by insurance or otherwise.

5 B. As used in this section:

6 (1) "dependent" means "dependent" as defined
7 in Section 152 of the Internal Revenue Code;

8 (2) "health care facility" means a hospital,
9 outpatient facility, diagnostic and treatment center,
10 rehabilitation center, freestanding hospice or other similar
11 facility at which medical care is provided;

12 (3) "medical care" means the diagnosis, cure,
13 mitigation, treatment or prevention of disease or for the
14 purpose of affecting any structure or function of the body;

15 (4) "medical care expenses" means amounts paid
16 for:

17 (a) the diagnosis, cure, mitigation,
18 treatment or prevention of disease or for the purpose of
19 affecting any structure or function of the body if provided by
20 a physician or in a health care facility;

21 (b) prescribed drugs or insulin;

22 (c) qualified long-term care services as
23 defined in Section 7702B(c) of the Internal Revenue Code;

24 (d) insurance covering medical care,
25 including amounts paid as premiums under Part B of Title 18 of

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1 the federal Social Security Act or for a qualified long-term
2 care insurance contract defined in Section 7702B(b) of the
3 Internal Revenue Code, if the insurance or other amount is paid
4 from income included in the taxpayer's adjusted gross income
5 for the taxable year;

6 (e) specialized treatment or the use of
7 special therapeutic devices if the treatment or device is
8 prescribed by a physician and the patient can show that the
9 expense was incurred primarily for the prevention or
10 alleviation of a physical or mental defect or illness; and

11 (f) care in an institution other than a
12 hospital, such as a sanitarium or rest home, if the principal
13 reason for the presence of the person in the institution is to
14 receive the medical care available; provided that if the meals
15 and lodging are furnished as a necessary part of such care, the
16 cost of the meals and lodging are "medical care expenses";

17 (5) "physician" means a medical doctor,
18 osteopathic physician, dentist, podiatrist, chiropractic
19 physician or psychologist licensed or certified to practice in
20 New Mexico or another state; and

21 (6) "prescribed drug" means a drug or
22 biological that requires a prescription of a physician for its
23 use by an individual."

24 Section 2. Section 7-2-18.13 NMSA 1978 (being Laws 2005,
25 Chapter 267, Section 1) is amended to read:

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1 "7-2-18.13. CREDIT--UNREIMBURSED OR UNCOMPENSATED
2 MEDICAL CARE EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS OF AGE
3 OR OLDER.--

4 A. A taxpayer who files an individual New Mexico
5 income tax return, who is sixty-five years of age or older and
6 who is not a dependent of another taxpayer may claim a credit
7 in an amount equal to two thousand eight hundred dollars
8 (\$2,800) for medical care expenses paid by the taxpayer for
9 that taxpayer or for the taxpayer's spouse or dependent if
10 those expenses equal twenty-eight thousand dollars (\$28,000)
11 or more within a taxable year and if those expenses are not
12 reimbursed or compensated for by insurance or otherwise.

13 B. A husband and wife who file separate returns
14 for a taxable year in which they could have filed a joint
15 return may each claim only one-half of the credit that would
16 have been allowed on a joint return.

17 C. The credit provided in this section may be
18 deducted from the taxpayer's income tax liability. If the
19 credit exceeds the income tax liability for the taxable year,
20 the excess shall be refunded to the taxpayer.

21 D. As used in this section:

22 (1) "dependent" means "dependent" as defined
23 in Section 152 of the Internal Revenue Code;

24 (2) "health care facility" means a hospital,
25 outpatient facility, diagnostic and treatment center,

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1 rehabilitation center, freestanding hospice or other similar
2 facility at which medical care is provided;

3 (3) "medical care" means the diagnosis, cure,
4 mitigation, treatment or prevention of disease or for the
5 purpose of affecting any structure or function of the body;

6 (4) "medical care expenses" means the amounts
7 paid for:

8 (a) the diagnosis, cure, mitigation,
9 treatment or prevention of disease or for the purpose of
10 affecting any structure or function of the body, if provided
11 by a physician or in a health care facility;

12 (b) prescribed drugs or insulin;

13 (c) qualified long-term care services
14 as defined in Section 7702B(c) of the Internal Revenue Code;

15 (d) insurance covering medical care,
16 including amounts paid as premiums under Part B of Title 18 of
17 the federal Social Security Act or for a qualified long-term
18 care insurance contract defined in Section 7702B(b) of the
19 Internal Revenue Code, if the insurance or other amount is
20 paid from income included in the taxpayer's adjusted gross
21 income for the taxable year;

22 (e) specialized treatment or the use of
23 special therapeutic devices if the treatment or device is
24 prescribed by a physician and the patient can show that the
25 expense was incurred primarily for the prevention or

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1 alleviation of a physical or mental defect or illness; and

2 (f) care in an institution other than a
3 hospital, such as a sanitarium or rest home, if the principal
4 reason for the presence of the person in the institution is to
5 receive the medical care available; provided that if the meals
6 and lodging are furnished as a necessary part of such care,
7 the cost of meals and lodging are "medical care expenses";

8 (5) "physician" means a medical doctor,
9 osteopathic physician, dentist, podiatrist, chiropractic
10 physician or psychologist licensed or certified to practice in
11 New Mexico or another state; and

12 (6) "prescribed drug" means a drug or
13 biological that requires a prescription of a physician for its
14 use by an individual."

15 Section 3. Section 7-2-35 NMSA 1978 (being Laws 2000
16 (2nd S.S.), Chapter 7, Section 1) is amended to read:

17 "7-2-35. DEDUCTION--UNREIMBURSED OR UNCOMPENSATED
18 MEDICAL CARE EXPENSES.--

19 A. A taxpayer may claim a deduction from net
20 income in an amount determined pursuant to Subsection B of
21 this section for medical care expenses paid during the taxable
22 year for medical care of the taxpayer, the taxpayer's spouse
23 or a dependent if the expenses are not reimbursed or
24 compensated for by insurance or otherwise and have not been
25 included in the taxpayer's itemized deductions, as defined in

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1 Section 63 of the Internal Revenue Code, for the taxable year.

2 B. The deduction provided in Subsection A of this
3 section may be claimed in an amount equal to the following
4 percentage of medical care expenses paid during the taxable
5 year based on the taxpayer's filing status and adjusted gross
6 income as follows:

7 (1) for surviving spouses and married
8 individuals filing joint returns:

9 If adjusted gross income is:	The following percent of
10	medical care expenses
11	paid may be deducted:
12 Not over \$30,000	25 percent
13 More than \$30,000 but not more than \$70,000	15 percent
14 Over \$70,000	10 percent;

15 (2) for single individuals and married
16 individuals filing separate returns:

17 If adjusted gross income is:	The following percent of
18	medical care expenses
19	paid may be deducted:
20 Not over \$15,000	25 percent
21 More than \$15,000 but not more than \$35,000	15 percent
22 Over \$35,000	10 percent;

23 and

24 (3) for heads of household:

25 If adjusted gross income is: The following percent of

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1 (d) insurance covering medical care,
2 including amounts paid as premiums under Part B of Title
3 [~~XVIII~~] 18 of the federal Social Security Act or for a
4 qualified long-term care insurance contract defined in Section
5 7702B(b) of the Internal Revenue Code, if the insurance or
6 other amount is paid from income included in the taxpayer's
7 adjusted gross income for the taxable year;

8 (e) nursing services, regardless of
9 where the services are rendered, if provided by a practical
10 nurse or a professional nurse licensed to practice in the
11 state pursuant to the Nursing Practice Act;

12 (f) specialized treatment or the use of
13 special therapeutic devices if the treatment or device is
14 prescribed by a physician and the patient can show that the
15 expense was incurred primarily for the prevention or
16 alleviation of a physical or mental defect or illness; and

17 (g) care in an institution other than a
18 hospital, such as a sanitarium or rest home, if the principal
19 reason for the presence of the person in the institution is to
20 receive the medical care available; provided that if the meals
21 and lodging are furnished as a necessary part of such care,
22 the cost of the meals and lodging are "medical care expenses";

23 (5) "physician" means a medical doctor,
24 osteopathic physician, dentist, podiatrist, chiropractic
25 physician or psychologist licensed or certified to practice in

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1 New Mexico or another state; and

2 (6) "prescribed drug" means a drug or
3 biological that requires a prescription of a physician for its
4 use by an individual."

5 Section 4. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2008.

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